

City Planning Commission

Department:
Community Development

Case #SAV-17-003

Applicant:
Driver Properties, LLC
c/o Dan Driver
15195 220th Street
Council Bluffs, IA 51503

Resolution of Intent No. _____

Resolution to Dispose No. _____

Planning Commission: 10/10/17

Set Public Hearing:

Public Hearing:

Subject/Title

Request: Public hearing on the request of Driver Properties, LLC to vacate and dispose of that part of 11th Avenue extending from the east right-of-way line of South 8th Street to the west right-of-way line of South 7th Street and abutting Block 12 and 13 Riddle's Subdivision.

Location: 11th Avenue between South 7th and 8th Streets

Background

The Community Development Department has received an application from Driver Properties, LLC, represented by Dan Driver, to vacate and dispose of the above described 11th Avenue right-of-way (see Attachment A). If vacated, the applicant intends to purchase their portion of right-of-way and construct a new parking lot and driveway for their contracting business (Driver Sewer & Water) at 1105 South 8th Street.

The subject 11th Avenue right-of-way is unimproved and measures 66 feet in width by 296 feet (m/l) in length. In early 2017, the Iowa Department of Transportation removed the former Burling Northern-Santa Fe railroad tracks from 11th Avenue as part of their rail consolidation plan associated with the Interstate 29/80 reconstruction project. The City has no plans to build a new street in the subject right-of-way.

The following exhibits show the existing conditions of the subject right-of-way and surrounding area.

Exhibit A: 2016 Aerial view of the subject alley and abutting properties facing south.

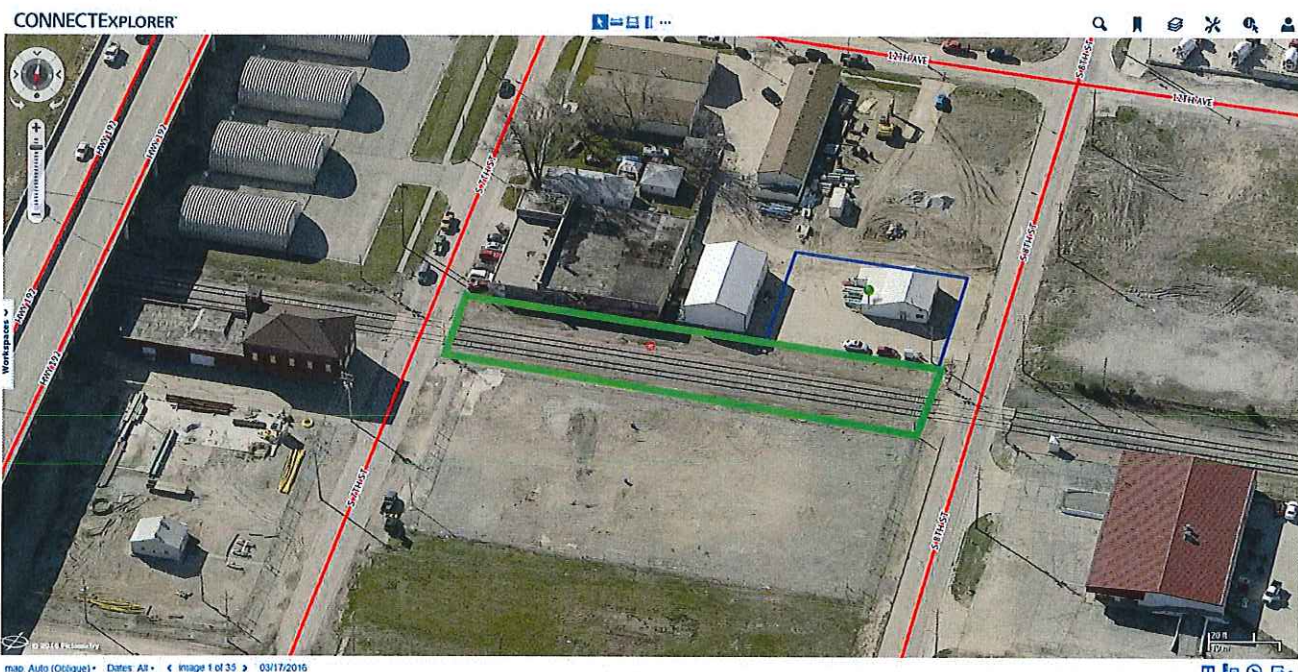


Exhibit B: View of the subject right-of-way facing east.



Exhibit C: View of the east alley in Block 13, Riddles Subdivision from the subject right-of-way.



On August 25, 2003 the City Council amended the adopted *Policy and Procedures for Alley, Street and Right-of-way Vacations*. The objectives of the amended Policy are as follows:

1. *To provide due process and citizen participation in the application and review process for vacations.*
There are four parcels of land which abut the subject right-of-way, as follows:
North – Vacant land owned by Black Hills/Iowa Gas Utility (no address)
South – Contractor's office/shop owned by Driver Properties, LLC (1105 South 8th Street)
Contractor's shop/warehouse owned by Robert and Kay Driver (no address)
Warehouse owned by Richard & Michele Bowers Trust (1100 South 7th Street)

All abutting property owners were mailed petitions asking if they are in favor of/opposed to and/or willing to/not willing to purchase the portion of the right-of-way that abuts their property, if vacated. Responses to these petitions are summarized in Comment #10 below.

2. *To ensure that no property owner is deprived of required and reasonable access.*

All abutting properties, except for one, have frontage on either South 7th Street or South 8th Street and will not be landlocked or have their access negatively impacted if the subject right-of-way is vacated. The property owned by Mr. and Mrs. Robert Driver is centrally located in Block 13, Riddles Subdivision and has only one road frontage that is 11th Avenue. The property is accessed from an abutting alley to the east and from South 8th Street through the applicant's property to the west. Mr. and Mrs. Driver along with Driver Properties, LLC utilize their properties together to operate Driver Sewer & Water. If the abutting 11th Avenue right-of-way is vacated this property would be landlocked, which is contrary the City's adopted policy and procedures for street right-of-way vacations. Mr. Robert Driver spoke with City staff and stated he is willing to deed his property to the applicant so that the two properties can be combined, if necessary for vacation approval.

3. *To discourage the creation and eliminate or reduce existing dead-end alleys, streets or other rights-of-way.* This request will not create a dead-end right-of-way.

4. *To reduce or eliminate hazardous and dangerous traffic conditions.* The subject right-of-way is unimproved and is not used for vehicular and/or pedestrian traffic.

5. *To protect all existing and proposed public utilities located in the right-of-way and to maintain necessary utility easements.*

All City Departments and utilities were notified of the request. The following responses were received:

- Public Works Departments stated they have utilities along South 7th and 8th Street but none located in the subject portion of 11th Avenue. Public Works also stated that any parking lot improvements must comply with current City standards and specifications.
- Council Bluffs Water Works stated they have no utilities in the subject right-of-way.
- MidAmerican Energy stated they have no objection to the right-of-way vacation.

Based on the information above, there are no utilities within this segment of 11th Avenue to the best of the City's knowledge. If vacated, an easement over said right-of-way will not be retained.

6. *To maintain appropriate right-of-way width to ensure that an adequate pedestrian and vehicular circulation system is retained.* Not applicable.
7. *To discourage the vacation of a portion of an existing alley, street or other right-of-way.* This request is to vacate a full 66' x 296' foot segment of 11th Avenue right-of-way between South 7th Street and South 8th Street.
8. *To assist in the implementation of the goals and objectives of the Comprehensive Plan.* The request is consistent with the local access and circulation objectives stated in Chapter 6, Transportation of the Bluffs Tomorrow: 2030 Plan (comprehensive plan).
9. *To reduce the City's maintenance liability on previously vacated right-of-way parcels from public improvement projects and various lots acquired through delinquent taxes or assessments.* Not applicable.

10. To establish an equitable price for surplus public property. All abutting property owners were notified about this vacation request. The following responses were received:

- Driver Properties, LLC stated they are in favor of the request and are willing to purchase their portion for the sum of \$599.25.
- Robert and Kay Driver stated they are in favor of the request and are willing to purchase their portion for the sum of \$315.46.
- Richard and Michele Bowers Trust stated they are in favor of the request and are willing to purchase their portion for the sum of \$629.40.
- No response has been received from Black Hills/Iowa Gas Utility as of the date of this report.

Note: The portion of 11th Avenue right-of-way located north of the east alley of Block 13, Riddles Subdivision was not included in any owner petitions, as this alley is owned by the City. If the vacation is approved, the segment of right-of-way (12' x 33') abutting said alley will remain under City ownership unless the City Council approves to dispose of the right-of-way to abutting property owners located to the east and west of the alley. This would require that the purchase price of right-of-way sold Mr. and Mrs. Driver and Richard & Michele Bowers Trust be recalculated as they would be purchasing more right-of-way than what was stated in their petitions

Recommendation

The Community Development Department recommends the following:

1. Approval of the request to vacate and dispose of that part of 11th Avenue extending from the east right-of-way line of South 8th Street to the west right-of-way line of South 7th Street and abutting Block 12 and 13 Riddle's Subdivision subject to the applicant and Mr. and Mrs. Robert Driver combining properties in order to not create a landlocked parcel and that all portions of the vacated right-of-way be acquired by the abutting property owners; and
2. Approval to dispose of the 12'x 33' section of 11th Avenue, located north of the east alley in Block 13, Riddles Subdivision, to each abutting property owner if vacated.

Attachment A – Right-of-way vacation map

Prepared By: Christopher Gibbons, Planner, Community Development Department

CITY OF COUNCIL BLUFFS - CITY PLANNING COMMISSION RIGHT-OF-WAY VACATION MAP CASE #SAV-17-003

